

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of:
Robert J. Beyers

Serial No.:
09/973,610

Filed:
October 9, 2001

For:
**Triggered Media Content in a Subscriber
Television System**

Confirmation No.: **6170**

Examiner:
Hossain, Farzana E.
Group Art Unit:
2623

Docket No.:
A-7280

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed on October 22, 2008, responding to the final Office Action mailed June 23, 2008 (Part of Paper No./Mail Date 20080609).

I. REAL PARTY IN INTEREST

The real party in interest of the instant application is Scientific-Atlanta, Inc., having its principal place of business at 5030 Sugarloaf Parkway, Lawrenceville, GA 30044. Scientific-Atlanta, Inc., the assignee of record, is wholly owned by Cisco Systems, Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF THE CLAIMS

Claims 1, 4, 5 and 7-38 stand finally rejected by the final Office Action mailed June 23, 2008, and are the subject of this appeal. Claims 2-3 and 6 were cancelled during prosecution.

IV. STATUS OF AMENDMENTS

No claim amendments were made after the final Office Action. The claim listing in section VIII. CLAIMS – APPENDIX (below) represents the present state of the claims.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Embodiments of the claimed subject matter are summarized below with reference numbers and references to the written description ("specification") and drawings. The subject matter described below appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Embodiments according to claim 1 involve a method in a subscriber television system (STS). The method comprises the steps of: displaying a first video stream to a subscriber in a video area (510 in FIG. 5) of a screen display (530 in FIG. 5) (p. 10 line 30 to p. 11 line 10); providing a plurality of media content instances to be displayed to the subscriber (p. 3 lines 20-25; p. 6 lines 20-25; p. 6 line 33 to p. 7 line 5); providing at least one exclusive trigger (800 in FIG. 8A) synchronized with a first media content instance (853 in FIG. 8A) of the plurality of media content instances (p. 15 line 10 to p. 16 line 5); enabling at least one exclusive content restriction responsive to a reception of the at least one trigger (p. 15 line 10 to p. 16 line 5; p. 16 lines 5-25; p. 16 line 25 to p. 17 line 5; p. 20 line 30 to p. 21 line 35), the at least one content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances (p. 11 line 15 to p. 12 line 5; p. 12 lines 10-30; p. 16 lines 5-10; p. 14 line 30 to p. 15 line 10), the particular media content instances associated with the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 18 line 8 to p. 19 line 15; p. 20 line 30 to p. 21 line 35); receiving an activation of an application in an application area (520 in FIG. 5) of the screen display (530 in FIG. 5) (p. 10 lines 30-35); responsive to receiving the activation of the application (p. 10 lines 30-35), displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area (500 in FIG. 5) of the screen display simultaneously with the display of the first video stream in the

video area (510 in FIG. 5) of the screen display and the application in the application area of the screen display (p. 10 line 30 to p. 11 line 14, p. 11 line 15 to p. 12 line 5).

Embodiments according to claim 10 involve a method in a subscriber television system (STS). The method comprises the steps of: displaying a first video stream to a subscriber in a video area (510 in FIG. 5) of a screen display (530 in FIG. 5) of a client device (140A in FIG. 3) (p. 10 line 30 to p. 11 line 10); providing a plurality of media content instances to be displayed to a subscriber by the client device (p. 3 lines 20-25; p. 6 lines 20-25; p. 6 line 33 to p. 7 line 5); providing at least one exclusive trigger (800 in FIG. 8A) synchronized with a first media content instance (853 in FIG. 8A) of the plurality of media content instances (p. 15 line 10 to p. 16 line 5), the at least one exclusive trigger comprising at least one unique identifier (p. 16 line 25 to p. 17 line 15; p. 20 lines 10-30); enabling at least one content control module (100 in FIG. 1) in the client device (p. 9 lines 1-15), the at least one content control module comprising a database (360 in FIG. 3; p. 9 lines 19-30) of a plurality of values for a plurality of unique identifiers (p. 9 lines 15-30), the plurality of values being individually matched with a corresponding content restriction (p. 9 lines 19-30; p. 18 line 5 to p. 19 line 15), the content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances (p. 11 line 15 to p. 12 line 5; p. 12 lines 10-30; p. 16 lines 5-10; p. 14 line 30 to p. 15 line 10), the particular media content instances associated with the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 18 line 8 to p. 19 line 15; p. 20 line 30 to p. 21 line 35); receiving the at least one exclusive trigger at the client device (p. 20 line 30 to p. 21 line 5); interpreting a value of the at least one exclusive trigger by the at least one content control module (p. 16 line 25 to p. 17 line 15; p. 20 lines 10-30); and enabling the at least one content control module to reference the database with the value and determine at least one enabled content restriction (p. 21 lines 5-30); displaying an application interface (p. 10 line 30 to p. 11 line 5) and receiving an activation of an application in an application area (520 in FIG. 5) of the screen display of the client device (p. 10 lines 30-35); responsive to receiving the activation of

the application (p. 10 lines 30-35), displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area (500 in FIG. 5) of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device (p. 10 line 30 to p. 11 line 14, p. 11 line 15 to p. 12 line 5).

Embodiments according to claim 17 involve a method in a subscriber television system (STS). The method comprises the steps of: inserting, within an available insertion area in at least one transport stream (FIG. 8A; FIG. 8B), at least one exclusive trigger having at least one content restriction (p. 15 line 10 to p. 16 line 25), the at least one content restriction enabling the display of all content except for particular content (p. 11 line 15 to p. 12 line 5; p. 12 lines 10-30; p. 16 lines 5-10; p. 14 line 30 to p. 15 line 10), the particular content associated with the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 20 line 30 to p. 21 line 35; p. 18 line 8 to p. 19 line 15); and distributing the at least one transport stream with the at least one exclusive trigger to a plurality of client devices (140 in FIG. 1) (p. 4 lines 10-20; p. 20 line 30 to p. 31 line 5); displaying a first video stream in a video area (510 in FIG. 5) of a screen display (530 in FIG. 5) (p. 10 line 30 to p. 11 line 10) of at least one of the plurality of client devices (140A in FIG. 3) (p. 10 line 30 to p. 11 line 10); displaying an application interface (p. 10 line 30 to p. 11 line 5) and receiving an activation of an application in an application area (520 in FIG. 5) of the screen display of at least one of the plurality of client devices (p. 10 lines 30-35); responsive to receiving the activation of the application (p. 10 lines 30-35), displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area (500 in FIG. 5) of the screen display of at least one of the plurality of client devices simultaneously with the display of the first video stream in the video area of the screen display of at least one of the plurality of client devices and the application interface in the application area of the screen display of at least one of the plurality of client devices (p. 10 line 30 to p. 11 line 14, p. 11 line 15 to p. 12 line 5).

Embodiments according to claim 21 involve a method in a subscriber television system (STS). The method comprises the steps of: providing a plurality of media content instances to be displayed to a subscriber (p. 3 lines 20-25; p. 6 lines 20-25; p. 6 line 33 to p. 7 line 5), a first media content instance of the plurality of media content instances comprising a video stream (p. 11 lines 5-10) and a second media content instance of the plurality of media content instances comprising a particular advertisement (p. 11 lines 5-15); providing at least one exclusive trigger synchronized (800 in FIG. 8A) with a priority event in the video stream (p. 3 lines 25-30; p. 11 lines 15-35; p. 15 lines 20-30); and enabling display of all media content instances, while excepting the particular advertisement from being displayed simultaneously with the priority event in the video stream (p. 11 line 15 to p. 12 line 5; p. 12 lines 10-30; p. 16 lines 5-10; p. 14 line 30 to p. 15 line 10), the particular advertisement associated with the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 18 line 8 to p. 19 line 15; p. 20 line 30 to p. 21 line 35); displaying the priority event in the video stream in a video area (510 in FIG. 5) of a screen display (530 in FIG. 3) of a client device (140A in FIG. 3) (p. 11 line 5 to p. 12 line 5); displaying an application interface (p. 10 line 30 to p. 11 line 5) and receiving an activation of an application in an application area (520 in FIG. 5) of the screen display of the client device (p. 10 lines 30-35); responsive to receiving the activation of the application (p. 10 lines 30-35), displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area of the screen display of the client device simultaneously with the display of the priority event in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device (p. 10 line 30 to p. 11 line 14, p. 11 line 15 to p. 12 line 5).

Embodiments according to claim 24 involve a system in a subscriber television system (STS). The system comprises: a memory (320 in FIG. 3) for storing logic (p. 6 lines 10-20; p. 8 lines 20-30); a processor for executing the logic stored in memory (p. 6 lines 10-20; p. 8 lines 20-30; 170 in FIG. 2; 310 in FIG. 3); logic configured to provide a plurality of media content

instances to be displayed to a subscriber (p. 3 lines 20-25; p. 6 lines 20-25; p. 6 line 33 to p. 7 line 5); logic configured to provide at least one exclusive trigger (800 in FIG. 8A) synchronized with a first media content instance (853 in FIG. 8A) of the plurality of media content instances (p. 15 line 10 to p. 16 line 5); logic configured to enable at least one content restriction responsive to a reception of the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 16 lines 5-25; p. 16 line 25 to p. 17 line 5; p. 20 line 30 to p. 21 line 35), the at least one content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances (p. 11 line 15 to p. 12 line 5; p. 12 lines 10-30; p. 16 lines 5-10; p. 14 line 30 to p. 15 line 10), the particular media content instances associated with the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 18 line 8 to p. 19 line 15; p. 20 line 30 to p. 21 line 35); logic for displaying a first video stream in a video area (510 in FIG. 5) of a screen display (530 in FIG. 5) (p. 10 line 30 to p. 11 line 10) of a client device (140A in FIG. 3) (p. 10 line 30 to p. 11 line 10); logic for displaying an application interface (p. 10 line 30 to p. 11 line 5) and receiving an activation of an application in an application area (520 in FIG. 5) of the screen display of the client device (p. 10 lines 30-35); logic for responsive to receiving the activation of the application (p. 10 lines 30-35), displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area (500 in FIG. 5) of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device (p. 10 line 30 to p. 11 line 14, p. 11 line 15 to p. 12 line 5).

Embodiments according to claim 31 involve a system in a subscriber television system (STS) client device. The system comprises: a memory (320 in FIG. 3) for storing logic in the STS client device (p. 8 lines 20-30); a processor for executing the logic stored in memory in the STS client device (p. 8 lines 20-30; 310 in FIG. 3); logic configured to provide a plurality of media content instances to be displayed to a subscriber (p. 3 lines 20-25; p. 6 lines 20-25; p. 6

line 33 to p. 7 line 5); logic configured to provide at least one exclusive trigger (800 in FIG. 8A) synchronized with a first media content instance (853 in FIG. 8A) of the plurality of media content instances (p. 15 line 10 to p. 16 line 5); and logic configured to enable at least one content restriction responsive to a reception of the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 16 lines 5-25; p. 16 line 25 to p. 17 line 5; p. 20 line 30 to p. 21 line 35), the at least one content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances (p. 11 line 15 to p. 12 line 5; p. 12 lines 10-30; p. 16 lines 5-10; p. 14 line 30 to p. 15 line 10), the particular media content instances associated with the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 18 line 8 to p. 19 line 15; p. 20 line 30 to p. 21 line 35); logic for displaying a first video stream in a video area (510 in FIG. 5) of a screen display (530 in FIG. 5) (p. 10 line 30 to p. 11 line 10) of a client device (140A in FIG. 3) (p. 10 line 30 to p. 11 line 10); logic for displaying an application interface (p. 10 line 30 to p. 11 line 5) and receiving an activation of an application in an application area (520 in FIG. 5) of the screen display of the client device (p. 10 lines 30-35); logic for responsive to receiving the activation of the application (p. 10 lines 30-35), displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area (500 in FIG. 5) of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device (p. 10 line 30 to p. 11 line 14, p. 11 line 15 to p. 12 line 5).

Embodiments according to claim 34 involve a system in a subscriber television system (STS) headend device. The system comprises: a memory for storing logic in the STS headend device (p. 6 lines 10-20); a processor for executing the logic stored in memory in the STS headend device (p. 6 lines 10-20); logic configured to provide a plurality of media content instances to be displayed to a subscriber (p. 3 lines 20-25; p. 6 lines 20-25; p. 6 line 33 to p. 7 line 5); logic configured to provide at least one trigger (800 in FIG. 8A) synchronized with a first

media content instance (853 in FIG. 8A) of the plurality of media content instances (p. 15 line 10 to p. 16 line 5); and logic configured to enable at least one content restriction responsive to a reception of the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 16 lines 5-25; p. 16 line 25 to p. 17 line 5; p. 20 line 30 to p. 21 line 35), the at least one content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances (p. 11 line 15 to p. 12 line 5; p. 12 lines 10-30; p. 16 lines 5-10; p. 14 line 30 to p. 15 line 10), the particular media content instances associated with the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 18 line 8 to p. 19 line 15; p. 20 line 30 to p. 21 line 35); logic for displaying a first video stream in a video area (510 in FIG. 5) of a screen display (530 in FIG. 5) (p. 10 line 30 to p. 11 line 10) of a client device (140A in FIG. 3) (p. 10 line 30 to p. 11 line 10); logic for displaying an application interface (p. 10 line 30 to p. 11 line 5) and receiving an activation of an application in an application area (520 in FIG. 5) of the screen display of the client device (p. 10 lines 30-35); logic for responsive to receiving the activation of the application (p. 10 lines 30-35), displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area (500 in FIG. 5) of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device (p. 10 line 30 to p. 11 line 14, p. 11 line 15 to p. 12 line 5).

Embodiments according to claim 37 involve a system in a subscriber television system (STS) headend. The system comprises: a memory for storing logic in the STS headend (p. 6 lines 10-20); a processor for executing the logic stored in memory in the STS headend (p. 6 lines 10-20); logic configured to allow the STS headend to receive and distribute at least one transport stream to a plurality of client devices (140 in FIG. 1) (p. 4 lines 10-20; p. 20 line 30 to p. 31 line 5), the STS headend comprising an administrative content control module (170 in FIG. 1) (p. 5 line 32 to p. 6 line 10; p. 21 line 33 to p. 22 line 20); and logic configured to enable

at least one exclusive trigger to be synchronized with an available insertion area in the at least one transport stream (FIG. 8A; FIG. 8B), the at least one exclusive trigger comprising at least one content restriction (p. 15 line 10 to p. 16 line 25), the at least one content restriction enabling display of all media content instances except for at least one particular media content instance of the plurality of media content instances (p. 11 line 15 to p. 12 line 5; p. 12 lines 10-30; p. 16 lines 5-10; p. 14 line 30 to p. 15 line 10), the at least one particular media content instance associated with the at least one exclusive trigger (p. 15 line 10 to p. 16 line 5; p. 20 line 30 to p. 21 line 35; p. 18 line 8 to p. 19 line 15); logic for displaying a first video stream in a video area (510 in FIG. 5) of a screen display (530 in FIG. 5) (p. 10 line 30 to p. 11 line 10) of a client device (140A in FIG. 3) (p. 10 line 30 to p. 11 line 10) logic for displaying an application interface (p. 10 line 30 to p. 11 line 5) and receiving an activation of an application in an application area (520 in FIG. 5) of the screen display of the client device (p. 10 lines 30-35); logic for responsive to receiving the activation of the application (p. 10 lines 30-35), displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area (500 in FIG. 5) of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device (p. 10 line 30 to p. 11 line 14, p. 11 line 15 to p. 12 line 5).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are to be reviewed on appeal.

A. Claims 1, 4-9, and 17-38 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Wine* (U.S. Pub. No. 2002/0004839) in view of *Zigmond* (U.S. Pat. No. 6,698,020) and further in view of *Bruck* (U.S. Pat. No. 7,143,428).

B. Claim 10 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Wine* (U.S. Pub. No. 2002/0004839) in view of *Zigmond* (U.S. Pat. No. 6,698,020), *Birdwell* (U.S. Pat. No. 6,108,706) and *Bruck* (U.S. Pat. No. 7,143,428).

C. Claims 11-16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Wine* (U.S. Pub. No. 2002/0004839), in view of *Zigmond* (U.S. Pat. No. 6,698,020), *Birdwell* (U.S. Pat. No. 6,108,706), and *Bruck* (U.S. Pat. No. 7,143,428), and further in view of *Sahota* (U.S. Pub. No. 2002/0010928)

D. Claim 23 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Wine* (U.S. Pub. No. 2002/0004839), in view of *Zigmond* (U.S. Pat. No. 6,698,020) and *Bruck* (U.S. Pat. No. 7,143,428), and further in view of *Flickinger* (U.S. Pub. No. 2001/0032333).

VII. ARGUMENT

A. Rejection of Claims 1, 4-9, and 17-38 under 35 U.S.C. §103: *Wine*, *Zigmond*, and *Bruck*

Appellant respectfully requests that this rejection be overturned. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest (either implicitly or explicitly) all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (see, e.g., Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

1. Independent Claims 1, 24, 31, and 34

The rejection of claim 1 should be overturned for at least the reason that that the proposed combination does not disclose “providing at least one exclusive trigger synchronized with a first media content instance of the plurality of media content instances” (as recited in claim 1). The rejection of claims 24, 31, and 34 should be overturned for at least the reason that that the proposed combination does not disclose “logic configured to provide at least one trigger synchronized with a first media content instance of the plurality of media content instances”.

The final Office Action alleges that:

Regarding Claim 1, *Wine* discloses...***providing at least one trigger synchronized with a first media content instance*** of the plurality of media content instances (Page 5, paragraphs 0050, 0051); the at least one trigger comprising at least one unique identifier or synchronized

timing information (Page 5, paragraph 0049), enabling at least one content restriction responsive to a reception of the **at least one trigger or VBI token** (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045,0050, 0051)...
(final Office Action, pp. 5-6, emphasis added.)

The Office Action thus appears to allege that the VBI token transmitted to a client is the claimed “trigger”. Appellant respectfully disagrees, and submits that transmitting VBI tokens to a client via a control file is not “providing at least one exclusive trigger synchronized with a first media content instance”. *Wine* describes VBI tokens as follows:

...The VBI tokens represent content that is to accompany the multimedia stream if the content is thematically appropriate or in context with the content of the multimedia stream. Thus, the VBI tokens provide an indication of the context of the accompanying content that the VBI tokens represent.
(*Wine*, para. 0031)

Thus, VBI tokens are not triggers and do not synchronize. Instead, VBI tokens describe or represent content.

Another portion of *Wine* relied on in the rejection describes a control file which contains VBI tokens:

For a program that is to be stored for later retrieval; the synchronization timing information, the VBI tokens, and the rest of the display information are stored in a control file associated with that program. For a program that is to be broadcast live; the synchronization timing information, VBI tokens, and other display information are contemporaneously sent to the client web browsers 210 with the transmission of the program.
(*Wine*, para. 0049)

Thus, the control file contains “synchronization timing information” as well as VBI tokens.

However, transmitting the control file is not “**providing** at least one exclusive trigger **synchronized** with a first media content instance”. The control file contains “synchronization timing information” which describes synchronization. But the VBI tokens (which *Wine* uses to describe ad content) are not synchronized with the media content.

The above-described feature is not taught in *Zigmond* or *Bruck* either. Therefore, the rejection of claims 1, 24, 31, and 34 should be overturned.

2. Independent Claim 17

The rejection of claim 17 should be overturned for at least the reason that the proposed combination does not disclose ***“inserting, within an available insertion area in at least one transport stream, at least one exclusive trigger having at least one content restriction”***. The final Office Action alleges that *Wine* discloses this feature as follows:

Wine discloses a method in a STS (Figure 5, 190), the method comprising the steps of: inserting, within an available insertion area in at least one transport stream (Page 4, paragraph 0042, Page 5, paragraph 0050), at least one trigger having at least one content restriction (Page 5, paragraphs 0043, 0046)...
(final Office Action, p. 8)

Appellant disagrees with this characterization of *Wine*. *Wine* does not discuss anything being inserted into a transport stream. One of the paragraphs relied on by the rejection does state that the “database computer 204 in turn formats the selected content and the audio-visual stream to place the audio-visual stream and selected content into a scheme appropriate for transmission over an Internet connection” (*Wine*, para. 0042). Appellant assumes (for the sake of argument) that either the selected content or the audio-visual stream is the same as the claimed “trigger having one content restriction”. Even so, a broad and general statement about “a scheme appropriate for transmission over an Internet connection” is not the same as the specific feature recited in claim 17, namely inserting into a “transport stream”. Furthermore, the same broad and general statement in *Wine* certainly does not teach the additional detail of “an available insertion area” in the transport stream as recited in claim 17. Nor does *Zigmond* or *Bruck* disclose, teach, or suggest this feature. Therefore, the rejection of claim 17 should be overturned.

3. Independent Claims 21

The rejection of claims 21 should be overturned for at least the reason that the proposed combination does not disclose, teach, or suggest “providing at least one exclusive trigger synchronized with a priority event in the video stream”. The final Office Action alleges (p. 8) that:

Regarding Claim 21, Wine discloses...providing at least one trigger synchronized with a priority event or content being displayed in the video stream (Page 5, paragraphs 0047, 0050, 0051);...
(final Office Action, p. 10)

Appellant can find no mention of a “priority event” in *Wine*, and the Office Action has merely drawn a conclusion – unsupported by evidence or reasoning – that “content being displayed in the video stream” is the same as a “priority event” as recited in claims 21. The above-described features are not taught in *Zigmond* or *Bruck* either. For this reason alone, the rejection of claims 21 should be overturned.

Nor does the proposed combination teach providing a trigger than is synchronized. It is not clear from the rejection on p. 8 which feature in *Wine* allegedly corresponds to the claimed “trigger”. Absent this information, Appellant assumes (for the sake of argument) that the rejection of claims 21 is analogous to the rejection of claim 1, and thus implicitly alleges that a VBI token transmitted to a client is the claimed “trigger”. Appellant respectfully disagrees, and submits that transmitting VBI tokens to a client via a control file is not “providing at least one exclusive trigger synchronized with a first media content instance”. *Wine* describes VBI tokens as follows:

...The VBI tokens represent content that is to accompany the multimedia stream if the content is thematically appropriate or in context with the content of the multimedia stream. Thus, the VBI tokens provide an indication of the context of the accompanying content that the VBI tokens represent.
(*Wine*, para. 0031)

Thus, VBI tokens are not triggers and do not synchronize. Instead, VBI tokens describe or represent content.

Another portion of *Wine* relied on in the rejection describes a control file which contains VBI tokens:

For a program that is to be stored for later retrieval; the synchronization timing information, the VBI tokens, and the rest of the display information are stored in a control file associated with that program. For a program that is to be broadcast live; the synchronization timing information, VBI tokens, and other display information are

contemporaneously sent to the client web browsers 210 with the transmission of the program.
(*Wine*, para. 0049)

Thus, the control file contains "synchronization timing information" as well as VBI tokens.

However, transmitting the control file is not "***providing*** at least one exclusive trigger ***synchronized*** with a first media content instance". The control file contains "synchronization timing information" which describes synchronization. But the VBI tokens (which *Wine* uses to describe ad content) are not synchronized with the media content.

The above-described features are not taught in *Zigmond* or *Bruck* either. Therefore, the rejection of claims 21 should be overturned.

4. Independent Claim 37

The rejection of claim 37 should be overturned for at least the reason that the proposed combination does not disclose "logic configured to enable at least one exclusive trigger to be synchronized with an available insertion area in the at least one transport stream". The final Office Action alleges that *Wine* discloses this feature as follows:

Wine also teaches that the web server enables at least one trigger to be synchronized with an available insertion area in the transport area in the transport stream (Page 5, paragraph 0050), the at least one trigger or VBI token comprising at least one content restriction (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051)...
(final Office Action, p. 19)

Appellant disagrees with this characterization of *Wine*. Nowhere in *Wine* is use of a transport stream discussed, much less the use of a transport stream in connection with synchronization. Paragraph 50 of *Wine*, which the final Office Action alleges as teaching this feature, does not even discuss transmission, much less a specific type of transmission using a transport stream. Nor does *Zigmond* or *Bruck* disclose, teach, or suggest this feature. Therefore, the rejection of claim 37 should be overturned.

5. Dependent Claims 4-5, 7-9, 18-20, 22-23, 25-30, 32, 35, 36, and 38

Since independent claims 1, 17, 21, 24, 31, 34, and 37 are allowable, Appellants submit that claims 4-5, 7-9, 18-20, 22-23, 25-30, 32, 35, 36, and 38 are allowable for at least the

reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Appellants request that the rejection of claims 47-48 and 51-52 be overturned.

B. Rejection of Claim 10 under 35 U.S.C. §103: *Wine*, *Zigmond*, *Birdwell*, and *Bruck*

The rejection of claim 10 should be overturned for at least the reason that the proposed combination does not disclose “the at least one content control module comprising a database of a plurality of values for a plurality of unique identifiers, the plurality of values being individually matched with a corresponding content restriction”. The final Office Action alleges that *Wine* teaches this feature as follows:

Wine discloses enabling at least one content control module in the web server (Figure 5, 208) which comprises a database or control file (Page 5, paragraphs 0048) of a plurality of values or time stamp values for plurality of unique identifiers or synchronization timing information (Page 5, paragraphs 0047, 0050, 0051), the plurality of values being individually matched with a corresponding content restriction or restriction on displaying only appropriate content (Page 3, paragraph 0031, Page 4, paragraph 0038, Page 5, paragraphs 0045, 0050, 0051).
(final Office Action, p. 26)

Appellant respectfully disagrees, and submits that the synchronization timing information in the control file of *Wine* is not a “plurality of unique identifiers”. *Wine* specifically states that the synchronization timing information is “relative to the beginning of an audio-visual stream (‘program’)”. Since multiple streams are described in the control file, duplicate values of a particular relative time are possible. In fact, *Wine* describes the synchronization timing information as being used for ad placement, and ads often appear at the same relative time in different programs (e.g., at 0:15). Therefore, a person of ordinary skill in the art would understand that a control file would probably contain multiple instances of a synchronization value of 0:15: one for program A, one for program B, etc. In any case, the inclusion of VBI tokens along with synchronization timing information in a control file as described in *Wine* certainly does not guarantee “a plurality of unique identifiers”. Nor does *Zigmond* or *Birdwell* or

Bruck disclose, teach, or suggest this feature. Therefore, the rejection of claim 10 should be overturned.

C. Rejection of Claims 11-16 under 35 U.S.C. §103:

Wine, Zigmond, Birdwell, Bruck, and Sahota

Sahota does not cure the deficiency discussed above in connection with independent claim 10. Since claim 10 is allowable for at least the reasons discussed above, Appellant submits that claims 11-16 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (see, e.g., Fed. Cir. 1988). Therefore, Appellant request that the rejection of claims 11-16 be overturned.

D. Rejection of Claim 23 under 35 U.S.C. §103: *Wine, Zigmond, Bruck, and Flickinger*

Flickinger does not cure the deficiency discussed above in connection with independent claim 21. Since claim 21 is allowable for at least the reasons discussed above, Appellant submits that claim 23 is allowable for at least the reason that it depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (see, e.g., Fed. Cir. 1988). Therefore, Appellant request that the rejection of claim 23 be overturned.

E. Conclusion

For at least the reasons discussed above, Appellants respectfully request that the Examiner's final rejection of claims 1, 4, 5 and 7-38 be overturned by the Board, and that the application be allowed to issue as a patent with pending claims 1, 4, 5 and 7-38.

In addition to the claims listed in Section VIII (CLAIMS – APPENDIX), Section IX (EVIDENCE – APPENDIX) included herein indicates that there is no additional evidence relied upon by this brief. Section X (RELATED PROCEEDINGS – APPENDIX) included herein indicates that there are no related proceedings.

Respectfully submitted,

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VIII. CLAIMS – APPENDIX

1. A method in a subscriber television system (STS), the method comprising the steps of:
displaying a first video stream to a subscriber in a video area of a screen display;
providing a plurality of media content instances to be displayed to the subscriber;
providing at least one exclusive trigger synchronized with a first media content instance
of the plurality of media content instances; and

enabling at least one exclusive content restriction responsive to a reception of the at
least one trigger, the at least one content restriction enabling display of all media content
instances except for particular media content instances of the plurality of media content
instances, the particular media content instances associated with the at least one exclusive
trigger;

receiving an activation of an application in an application area of the screen display;
responsive to receiving the activation of the application, displaying one of the media
content instances not excluded by the exclusive trigger in an advertisement area of the screen
display simultaneously with the display of the first video stream in the video area of the screen
display and the application in the application area of the screen display.

4. The method of claim 1, wherein the at least one content restriction requires a particular
second media content instance of the plurality of media content instances to be excluded from
display for a time period.

5. The method of claim 4, wherein the time period is equal to the length of the display of
the first media content instance of the plurality of media content instances, and wherein the
particular second media content instance of the plurality of media content instances is excluded
from display during the display of the first media content instance of the plurality of media
content instances.

7. The method of claim 1, wherein the at least one trigger includes the at least one content restriction.

8. The method of claim 1, wherein the at least one trigger comprises information indicating the location of at least one media content instance needed to satisfy the at least one content restriction.

9. The method of claim 1, wherein the at least one trigger comprises at least one media content instance needed to satisfy the at least one content restriction.

10. A method in a subscriber television system (STS), the method comprising the steps of:
displaying a first video stream in a video area of a screen display of a client device;
providing a plurality of media content instances to be displayed to a subscriber by the client device;

providing at least one exclusive trigger synchronized with a first media content instance of the plurality of media content instances, the at least one exclusive trigger comprising at least one unique identifier;

enabling at least one content control module in the client device, the at least one content control module comprising a database of a plurality of values for a plurality of unique identifiers, the plurality of values being individually matched with a corresponding content restriction, the content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances, the particular media content instances associated with the at least one exclusive trigger;

receiving the at least one exclusive trigger at the client device;

interpreting a value of the at least one exclusive trigger by the at least one content control module; and

enabling the at least one content control module to reference the database with the value and determine at least one enabled content restriction;

displaying an application interface and receiving an activation of an application in an application area of the screen display of the client device;

responsive to receiving the activation of the application, displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device.

11. The method of claim 10, wherein the client device displays the screen display comprising the application interface in the application area of the screen display of the client device, an advertisement banner in the advertisement area of the screen display of the client device, and the video stream in the video area of the screen display of the client device, the video stream displaying the first media content instance of the plurality of media content instances, the first media content instance of the plurality of media content instances being a commercial.

12. The method of claim 11, wherein the content restriction excludes the display of a second media content instance of the plurality of media content instances in the advertisement banner.

13. The method of claim 12, wherein the second media content instance of the plurality of media content instances is associated with a competitor funding entity of the commercial.

14. The method of claim 11, wherein the at least one enabled content restriction allows the display of any of the plurality of media content instances in the advertisement banner not excluded by the content restriction.

15. The method of claim 14, wherein at least one of the plurality of media content instances excluded by the content restriction is media content associated with a competitor of a funding entity of the commercial.

16. The method of claim 11, wherein the at least one enabled content restriction is an inclusive/exclusive combination content restriction, and wherein the inclusive/exclusive combination content restriction requires the display of a second media content instance of the plurality of media content instances in the advertisement banner if available, the second media content instance of the plurality of media content instances being associated with a funding entity of the commercial, if the second the media content is not available, then the inclusive/exclusive combination content restriction requires the display of a third of the plurality of media content instances in the advertisement banner, the third of the plurality of media content instances being any media content not associated with a competitor of a funding entity of the commercial.

17. A method in a subscriber television system (STS), the method comprising the steps of:
inserting, within an available insertion area in at least one transport stream, at least one exclusive trigger having at least one content restriction, the at least one content restriction enabling the display of all content except for particular content, the particular content associated with the at least one exclusive trigger; and
distributing the at least one transport stream with the at least one exclusive trigger to a plurality of client devices;

displaying a first video stream in a video area of a screen display of at least one of the plurality of client devices;

displaying an application interface and receiving an activation of an application in an application area of the screen display of at least one of the plurality of client devices;

responsive to receiving the activation of the application, displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area of the screen display of at least one of the plurality of client devices simultaneously with the display of the first video stream in the video area of the screen display of at least one of the plurality of client devices and the application interface in the application area of the screen display of at least one of the plurality of client devices.

18. The method of claim 17, wherein the at least one content restriction excludes the insertion of at least one designated media content instance, and wherein the designated media content instance is excluded from the available insertion area in the at least one transport stream.

19. The method of claim 18, wherein the at least one designated media content instance is a local commercial.

20. The method of claim 17, wherein the at least one content restriction is an exclusive content restriction requiring the exclusion of at least one designated media content instance.

21. A method in a subscriber television system (STS), the method comprising the steps of:
providing a plurality of media content instances to be displayed to a subscriber, a first media content instance of the plurality of media content instances comprising a video stream

and a second media content instance of the plurality of media content instances comprising a particular advertisement;

providing at least one exclusive trigger synchronized with a priority event in the video stream; and

enabling display of all media content instances, while excepting the particular advertisement from being displayed simultaneously with the priority event in the video stream, the particular advertisement associated with the at least one exclusive trigger;

displaying the priority event in the video stream in a video area of a screen display of a client device;

displaying an application interface and receiving an activation of an application in an application area of the screen display of the client device;

responsive to receiving the activation of the application, displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area of the screen display of the client device simultaneously with the display of the priority event in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device.

22. The method of claim 21, wherein the particular advertisement is selectable by the subscriber.

23. The method of claim 21, wherein the priority event is a scene displayed in the video stream where a scene item related to a first funding entity is represented, and wherein the particular advertisement is an image of an item similar to the scene item but related to a second funding entity.

24. A system in a subscriber television system (STS), the system comprising:

a memory for storing logic;

a processor for executing the logic stored in memory;

logic configured to provide a plurality of media content instances to be displayed to a subscriber;

logic configured to provide at least one exclusive trigger synchronized with a first media content instance of the plurality of media content instances; and

logic configured to enable at least one content restriction responsive to a reception of the at least one exclusive trigger, the at least one content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances, the particular media content instances associated with the at least one exclusive trigger;

logic for displaying a first video stream in a video area of a screen display of a client device;

logic for displaying an application interface and receiving an activation of an application in an application area of the screen display of the client device;

logic for responsive to receiving the activation of the application, displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device.

25. The system of claim 24, wherein the least one content restriction requires a second media content instance of the plurality of media content instances to be displayed for a time period.

26. The system of claim 25, wherein the time period is equal to the length of the display of the first media content instance of the plurality of media content instances, and wherein the second media content instance of the plurality of media content instances is excluded simultaneously with the first media content instance of the plurality of media content instances.
27. The system of claim 24, wherein the least one content restriction requires a second media content instance of the plurality of media content instances to be excluded from display for a time period.
28. The system of claim 27, wherein the time period is equal to the length of the display of the first media content instance of the plurality of media content instances, and wherein the second media content instance of the plurality of media content instances is excluded from display during the display of the first media content instance of the plurality of media content instances.
29. The system of claim 24, wherein the at least one trigger comprises the at least one content restriction.
30. The system of claim 24, wherein the at least one trigger comprises at least one media content needed to satisfy the at least one content restriction.
31. A system in a subscriber television system (STS) client device, the system comprising:
a memory for storing logic in the STS client device;
a processor for executing the logic stored in memory in the STS client device;
logic configured to provide a plurality of media content instances to be displayed to a subscriber;

logic configured to provide at least one exclusive trigger synchronized with a first media content instance of the plurality of media content instances; and

logic configured to enable at least one content restriction responsive to a reception of the at least one exclusive trigger, the at least one content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances, the particular media content instances associated with the at least one exclusive trigger;

logic for displaying a first video stream in a video area of a screen display of a client device;

logic for displaying an application interface and receiving an activation of an application in an application area of the screen display of the client device;

logic for responsive to receiving the activation of the application, displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device.

32. The system of claim 31, wherein the least one content restriction excludes a second media content instance of the plurality of media content instances from being displayed for a time period.

33. The system of claim 32, wherein the time period is equal to the length of the display of the first media content instance of the plurality of media content instances, and wherein the second media content instance of the plurality of media content instances is excluded simultaneously with the first media content instance of the plurality of media content instances.

34. A system in a subscriber television system (STS) headend device, the system comprising:

- a memory for storing logic in the STS headend device;

- a processor for executing the logic stored in memory in the STS headend device;

- logic configured to provide a plurality of media content instances to be displayed to a subscriber;

- logic configured to provide at least one trigger synchronized with a first media content instance of the plurality of media content instances; and

- logic configured to enable at least one content restriction responsive to a reception of the at least one exclusive trigger, the at least one content restriction enabling display of all media content instances except for particular media content instances of the plurality of media content instances, the particular media content instances associated with the at least one exclusive trigger;

- logic for displaying a first video stream in a video area of a screen display of a client device;

- logic for displaying an application interface and receiving an activation of an application in an application area of the screen display of the client device;

- logic for responsive to receiving- the activation of the application, displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area of the screen display of the client device simultaneously with the display of the first video stream in the video area of the screen display of the client device and the application interface in the application area of the screen display of the client device.

35. The system of claim 34, wherein the least one content restriction excludes a second media content instance of the plurality of media content instances to be displayed for a time period.

36. The system of claim 35, wherein the time period is equal to the length of the display of the first media content instance of the plurality of media content instances, and wherein the second media content instance of the plurality of media content instances is excluded simultaneously with the first media content instance of the plurality of media content instances.

37. A system in a subscriber television system (STS) headend, the system comprising:

- a memory for storing logic in the STS headend;

- a processor for executing the logic stored in memory in the STS headend;

- logic configured to allow the STS headend to receive and distribute at least one transport stream to a plurality of client devices, the STS headend comprising an administrative content control module; and

- logic configured to enable at least one exclusive trigger to be synchronized with an available insertion area in the at least one transport stream, the at least one exclusive trigger comprising at least one content restriction, the at least one content restriction enabling display of all media content instances except for at least one particular media content instance of the plurality of media content instances, the at least one particular media content instance associated with the at least one exclusive trigger;

- logic for displaying a first video stream in a video area of a screen display of a client device;

- logic for displaying an application interface and receiving an activation of an application in an application area of the screen display of the client device;

- logic for responsive to receiving- the activation of the application, displaying one of the media content instances not excluded by the exclusive trigger in an advertisement area of the screen display of the client device simultaneously with the display of the first video stream in the

video area of the screen display of the client device and the application interface in the application area of the screen display of the client device.

38. The system of claim 37, wherein the at least one content restriction excludes the insertion of at least one designated media content, and wherein the administrative content control module allows the insertion of the least one designated media content from the transport stream.

IX. EVIDENCE – APPENDIX

None.

X. RELATED PROCEEDINGS – APPENDIX

None.